

Order

Michigan Supreme Court
Lansing, Michigan

June 11, 2021

Bridget M. McCormack,
Chief Justice

162332-3

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh
Elizabeth M. Welch,
Justices

DENISE DOSTER,
Plaintiff-Appellant,

v

SC: 162332-3
COA: 349560, 350941
Saginaw CC: 17-034216-CD

COVENANT MEDICAL CENTER, INC.,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the September 17, 2020 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on the application. MCR 7.305(H)(1).

The appellant shall file a supplemental brief addressing whether, when reviewing the record existing at the time the Saginaw Circuit Court ruled on the appellee's motion for summary disposition and when that record is construed in the appellant's favor, the evidence was sufficient to permit a reasonable trier of fact to conclude that age discrimination was a motivating factor in the appellee's hiring decision and that its stated explanation was mere pretext for unlawful discrimination. See generally *Hazle v Ford Motor Co*, 464 Mich 456 (2001). In particular, the appellant should address any inferences arising from evidence that the hiring manager may have focused on job candidates' respective ages, that there were irregularities in the candidate scoring system, and that the appellee's stated rationale for its hiring decision varied from its originally-posted job description. See, e.g., *Krohn v Sedwick James of Mich, Inc*, 244 Mich App 289, 298 (2001) (considering the probative value of "stray remarks"); *George v Youngstown State Univ*, 966 F3d 446, 466 (CA 6, 2020) (recognizing that "evidence suggest[ing] irregularities with the search process . . . can raise a genuine issue of fact as to whether an employer's asserted reason is pretextual"). The appellant's brief shall be filed by October 25, 2021, with no extensions except upon a showing of good cause. In the brief, citations to the record must provide the appendix page numbers as required by MCR 7.312(B)(1). The appellee shall file a supplemental brief within 21 days of being served with the appellant's brief. A reply, if any, must be filed by the appellant within 14

days of being served with the appellee's brief. The parties should not submit mere restatements of their application papers.

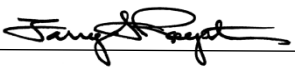
Other persons or groups interested in the determination of the issue presented in this case may move the Court for permission to file briefs amicus curiae.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 11, 2021


Clerk